



MASSACHUSETTS DEPARTMENT OF REVENUE

DEEDS EXCISE EXCHANGES OF PROPERTY

D O R D I R E C T I V E

**DOR-D
89-14**

ISSUE: Is an exchange of two pieces of real estate subject to the Massachusetts deeds excise?

DISCUSSION: Massachusetts imposes an excise upon the transfer of any deed, instrument or other writing whereby realty sold is conveyed to a purchaser. G.L. c. 64D, § 1. The excise is based upon the consideration given for the property and applies whenever the consideration, exclusive of any lien or encumbrance remaining on the property, is greater than \$100. The tax is paid by the person making or signing the deed and is evidenced by an affixed stamp. As of July 1, 1989, the tax is \$2.00 for each \$500, or fraction, of consideration plus an additional tax of 14% of the tax imposed, i.e., \$2.28/\$500, except in Barnstable County where the rate, including surtax, is \$2.85/\$500. The rates are currently scheduled to change on July 1, 1992.

When parties exchange real estate the conveyance of each parcel is subject to the deeds excise. If a parcel of real estate is conveyed in exchange for property other than real estate (i.e., personalty) only the conveyance of the real estate is subject to the excise. In like-kind exchanges, the consideration in each case is the value of the property received by the transferee.

Where property is conveyed subject to existing encumbrances not removed at the time of sale, the amount of the encumbrance is not taxable. No deduction may be made, however, for encumbrances placed on the property at the time of sale. See DOR-D 88-18.

Example 1: Fred and Ginger agree to trade apartment buildings. Fred's building, located in Newton, is worth \$450,000. Ginger's building, located in Boston, is worth \$500,000. Each building will be refinanced. In addition, Fred will give Ginger an additional cash payment of \$50,000.

The exchange of both parcels is subject to the deeds excise, as follows:

Fred to Ginger:

Amount Paid For Property \$450,000

Excise \$ 2,052

$(\$450,000/\$500 \times \$2.28)$

This sum is payable by Fred as maker of the deed given to Ginger. Note that the additional cash is excluded in calculating the excise since it is not real estate subject to the deeds excise.

Ginger to Fred:

Amount paid for Property \$500,000

Excise \$ 2,280

$(\$500,000/\$500 \times \$2.28)$

This sum is payable by Ginger as maker of the deed given to Fred.

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Example 2: George and Gracie agree to exchange George's real estate in Leominster worth \$150,000 for Gracie's stock worth \$95,000 plus a cash payment of \$55,000. Gracie will refinance the property.

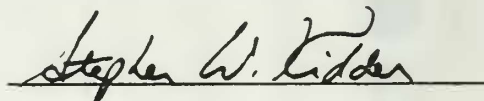
George will pay a deeds excise of \$684, computed as follows:
$$(\$95,000 + \$55,000) / \$500 \times \$2.28 = \$684$$

George will pay this sum as maker of the deed given to Gracie. There is no deeds excise payable on Gracie's transfer of the stock to George. The excise is imposed only on the transfer of real estate.

DIRECTIVE: Exchanges of real property are subject to the deeds excise, computed upon the total consideration given for each parcel of real estate, less any lien or encumbrance on the property remaining at the time of sale.

REFERENCE: G.L. c. 64D, § 1; DOR-D 88-18.

December 11, 1989



Stephen W. Kidder
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C 01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.